

as to claims 1-27. In the alternative, it is respectfully requested that the non-elected claims 21-27 be rejoined when a product claim is found allowable as set forth in MPEP 821.04.

Claims 6-8 stand rejected under 35 U.S.C. §112 2nd paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. The Applicants traverse this rejection for the following reasons. Claim 6 recites that the phase change material is a mixture comprising hexadecane, pentadecane and tetradecane. Claims 7 and 8 which are dependent upon 6 specify the phase change material with greater detail and indicate that the phase change material comprises a percentage of a mixture of N-paraffins having an average chain length of about 15 carbon atoms. A significant number of these N-paraffins would be pentadecane having a chain length of 15 carbon atoms. Nothing in claims 7 or 8 excludes the pentadecane specified in claim 6. Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. §112 be withdrawn.

Claims 1-8 and 16-17 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 5,943,876 to Meyer et al. Likewise, claims 1-8, 11-12 and 16-17 stand rejected under § 102(b) as being anticipated by U.S. Pat. No. 6,079,404 to Salyer. Applicants respectfully ~~traverse these rejections. The Applicants submit that the §102-rejections must fail as a matter of~~ law because the cited references fail to disclose each and every element of the invention as claimed. Claim 1, upon which the other claims depend, specifically recites an open cell foam having an open cell content of 80% or more and an average pore size of about 1-200 microns and a phase change material present in the open cell foam in the amount of 80% volume or greater. Neither of the cited references discloses nor suggests these limitations with respect to the foam and the percent of phase change material present in the open cell foam. Accordingly, Applicants respectfully request that the rejections under 102(b) over Meyer et al. and Salyer be withdrawn.

Claims 1-3, 9 and 16-17 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 5,844,014 to Malone. Again, Applicants respectfully traverse the rejection under §102(b)

because the reference fails to disclose all of the limitations of the invention as claimed. Malone discloses a micropore open cell foam which may be used in the production of a an evacuated insulation panel. Malone further discloses that the evacuated insulation panel may include a getter material contained in a packet having a porous or permeable wrapper incorporated into the evacuated insulation panel. Malone fails to disclose a foam composite comprising an open cell foam and a phase change material wherein the phase change material is present in the open cell foam in the amount of 80% volume or greater. Malone's reference to incorporation of getter materials in an evacuated insulation panel formed using a foam is insufficient to anticipate or render obvious the claims of the present application. Accordingly, the §102(b) rejection over Malone must fail as a matter of law and Applicants respectfully request that the rejection be withdrawn.

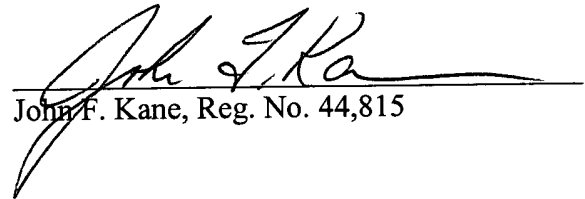
Claims 4-8, 10-15 and 18-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Malone in view of Fishback U.S. Pat. No. 5,523,333. The office relies on Fishback et al. as disclosing the specific phase change materials claimed in the present application. However, Fishback fails to remedy the defect in Malone as indicated above. Even when combined, the cited prior art references fail to teach or suggest the present invention as claimed in claims 1-20. Neither Malone nor Fishback discloses a foam composite comprising an open cell foam having an open cell content of 80% or more and average pore size of about 1-200 microns and a phase change material where the phase change material is present in the open cell foam in the amount of 80% volume or greater. Accordingly, Applicants respectfully request that the rejection under §103 be withdrawn as well.

The present invention is directed to a micropore open cell foam composite comprising a microcell open cell foam and a phase change material. The phase change material is present in the open cell foam in an amount of 80% volume or greater. This combination of a microcellular foam and a phase change material at a high volume percentage of the microcellular foam is neither disclosed nor suggested in the prior art.

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For the foregoing reasons, the Applicants respectfully request that the rejections of record be withdrawn and that claims 1-20 currently pending are patentable over the cited references of record and are in condition for allowance. If the examiner would like to discuss any aspect of this response, please contact the undersigned at the telephone number indicated below.

Respectfully submitted,


John F. Kane, Reg. No. 44,815

THOMPSON HINE LLP
2000 Courthouse Plaza, N.E.
10 West Second Street
Dayton, Ohio 45402-1758
937-443-6816

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